

REMARKS

Claims 1-7, 9-15 and 17 are before the Examiner. Claims 1-4, 6, 7, 9, 10, 12-14 and 17 have been amended and are now believed to be allowable. Thus, favorable reconsideration and allowance of these claims is respectfully requested.

Rejection Under 35 U.S.C. §112

Claims 1-4, 7, 9 and 12-14 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has clarified the claim language at most locations noted by the Examiner to repair the ambiguities identified. With respect to claim 4, the antecedent basis objection is not understood, as independent claim 1, from which claim 4 depends, defines mixing at line 3.

Rejection Under 35 U.S.C. § 103

Claims 1-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,877,208 to Kennard, Jr. in view of U.S. Patent No. 4,071,163 to Martin. Applicant has amended the claims to clarify the invention, which is now distinguishable from the references cited.

Applicant's device is a simplified, inexpensive and easily used holder or retainer for supporting a conventional bucket or can containing paint or a liquefied building material which must be mixed prior to application in a building construction. It is conventional to mix the contents of such containers with a drill-like mixer having a shaft with blades which extend downwardly into the bucket for stirring its contents. In conventional use, particularly where the contents of the can are relatively stiff, such as a viscous plaster material or the like, the rotational force that is applied by the blades

during mixing tends to rotate the bucket or throw it away from the workman. Holding the bucket against rotation or tipping is a common problem. Likewise, moving an open bucket from one location to another frequently results in spilling or splashing its contents.

Applicant's device firmly plants the workman's feet on opposite sides of the bucket, near the rear of the ring within which the bucket is frictionally gripped, so that the user's body is vertically upright along the rear of the bucket. In that position, the user, who would be holding a mixing device motor or handle or the like, can comfortably point the mixer downwardly in front of his body so that the mixing shaft and blades extend vertically down into the bucket. The user's body, in that position, is generally next to the bucket. However, the weight of the user is firmly downward at the rear and both side portions of the holding device. That resists the tendency of the can to rotate or spin off or tip or otherwise displace from the ring within which it is positioned.

None of the prior art references of record disclose such a simplified, inexpensive construction which is so easily and quickly used. Moreover, certain claims indicate that the bucket is gripped within the socket-like ring by means of a "Morse" taper arrangement. "Morse" tapers are commonly used to secure a shaft or a tool bit or drill bit within a hole in a machine. Thus, such a taper may be used to hold the bucket within the ring even though the bucket and ring are many times larger than the conventional use of such a taper. This permits the user to simply push the bucket down into the socket-like ring where it will be gripped tightly until it is removed by being pulled vertically upwardly.

Claim 1 as amended, more clearly defines the arrangement of the ring having the flat wings extending outwardly from its opposite sides and rearwardly of the rear of the horizontally-arranged socket-ring. That construction positions the feet of the user along the rear and opposite sides of the ring. Thus, the user's body is positioned at the rear of, and adjacent to, the ring so that when the user holds the mixer, the mixer will normally extend approximately vertical downwardly in front of his body into the bucket. The pressure that results from the user's weight upon the wings, firmly holds the ring, on both of its sides, against the ground surface. With the mixer normally arranged in front of the user's body, directly above the bucket, the ring holds the bucket against turning due to the rotational forces of the mixer.

The prior art patent to Kennard, No. 4,877,208 illustrates a device in which the user is arranged a considerable distance rearwardly of the socket-ring. The patent drawing indicates that the user would have to lean forwardly over the bucket since the bucket would be spaced a distance from the user. That is, the user would have to bend over when holding the mixing device in the bucket. Note, that the specification describes the Kennard device as having an overall length of three feet and being trapezoidal in shape and being about two feet wide at the large width of the foot support portion of the device. (See *Kennard*, column 3, lines 1-7.) That shape would preclude positioning the user's feet at least partially along the sides of the socket. Since the user's weight is applied remotely from the bucket-holding socket, it appears to be possible for the bucket and the holder to swing sideways relative to the user's body. Conventional mixing devices are relatively heavy and difficult to hold during the rotation

of the mixing blades. Hence, the position of user's body is awkward relative to the bucket.

Prior art Patent No. 6,464,184 to Lytle, illustrates and describes a holding device comprising a pair of hinged, swinging boards upon which the user stands with his entire body positioned over the center of the bucket. That, therefore, requires the user to bend or to lean backwards away from the bucket in order to hold the mixing device in the center of the bucket. Hence, as illustrated in Fig. 6 of that patent, the user would have a problem in maintaining his position, and in physically keeping the mixer within the central portion of the bucket, during operation of the mixing device. Further, any lateral displacement of the bucket or splashing of the contents of the bucket during mixing would likely coat the user's clothing and the user's body which are located directly above the bucket. Moreover, the Lytle device clearly would not be usable to support and hold a bucket against tipping during transportation of the bucket, since the user would not be positioned upon the device at that time.

Thus, applicant submits that claim 1 patentably differs from the prior art and that the claim is in condition for allowance.

Claims 2 through 6 depend from claim 1. Claim 6 adds the ring wall being formed of the resilient plastic material for gripping and compressing against the bucket.

Claim 3 adds that the interior wall surface of the ring is tapered to form a "Morse" taper, which is not suggested by the prior art.

Claim 4 references the Morse taper for frictionally locking the bucket within the ring. This is not disclosed or suggested by the prior art.

Claim 5 adds the downwardly extending protuberances for engaging the ground. This increases the frictional holding of the device during mixing. In combination with the subject matter of claim 1, this claim differs from the prior art.

Claim 6 adds to claim 1 the use of different diameters within the ring for accommodating at least two different diameter buckets. That feature, in combination with the elements of claim 1, is not disclosed in the prior art.

Independent claim 7 similarly to claim 1, defines the wing locations extending from the side and rear portions of the ring which will position the user's feet and on opposite sides of the rear and sides of the ring and position the user's body at the rear of the ring. That places the pressure from user's weight at the side and the rear portions of the ring. With that arrangement the user's arms are aligned over the ring, while his body is offset rearwardly of the ring, so that he may conveniently hold the mixer directly downwardly into the bucket. This construction is not shown in the prior art.

Claim 8 has been cancelled.

Dependent claim 9 includes the Morse taper formed on the interior of the ring for frictionally locking the bucket within the ring. Claim 10 depends from claim 9, adding the approximately two-degree wall taper which provides an approximately four-degree interior taper on the diametrically opposite surfaces of the ring wall. This feature is not disclosed in the prior art along with the subject matter of claim 7.

Claim 11 adds to claim 7 the expansion of the inner-wall of the socket for gripping the bucket. This combination is not disclosed in the prior art cited.

Dependent claim 12 adds to the combination of claim 7, that the interior wall of the ring is formed with at least two tapered portions for accommodating at least two different size buckets. That overall combination is not disclosed in the prior art cited.

Independent claim 13, includes the feature that the wings are located at the rear portion of the ring and at the rear of the side portions of the ring, with the wings extending rearwardly of the ring rear portion. This positions the user adjacent the rear and side portions of the ring so that the user may conveniently insert the mixer directly downwardly into the bucket.

Claim 14 adds to claim 13 that the ring wall is of a resilient plastic material which compresses inwardly against the bucket for frictionally gripping the bucket. Claim 15 adds that the interior wall of the ring is tapered and claim 17 adds the feature that the ring is formed with upper and lower tapered portions for accommodating different diameter buckets. These features in combination with claim 13 are not disclosed in the cited prior art.

Claim 16 has been cancelled.

Conclusion

It is believed that all grounds of objection have been adequately addressed through this response. None of the references cited in the Office Action disclose the invention set forth in the claims, as indicated above. Nor are there any suggestions in the cited prior art to provide the claimed construction. Therefore, applicant respectfully requests allowance of all remaining claims.

In the event there are questions regarding the claims or the application, applicant respectfully requests the Examiner to call the undersigned attorney-of-record.

Respectfully submitted,

Dated: Nov 5, 2009

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